

SANDERS LAW, PLLC

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File No.: 103134

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

National Photo Group, LLC,

Plaintiff,

vs.

Maverick Media LLC,

Defendant(s).

Docket No:

DEMAND FOR JURY TRIAL

COMPLAINT

National Photo Group, LLC ("NPG") (hereinafter collectively "*Plaintiff(s)*"), by and through its undersigned counsel, states and alleges as follows:

INTRODUCTION

1. Plaintiff(s) provide entertainment-related photojournalism goods and services and own the rights to a multitude of photographs featuring celebrities, which it licenses to online and print publications. Plaintiff(s) have obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

2. Defendant (hereinafter collectively referred to as "*Defendant(s)*") owns and operates a website known as www.921thefrog.com (the website(s) are collectively referred to herein as the "*Websites*") and without permission or authorization from Plaintiff(s) copied, modified, and displayed Plaintiff(s)' photograph(s) on the Websites and engaged in this

1 misconduct knowingly and in violation of the United States copyright laws.

2 3. Plaintiff(s) have been substantially harmed as a result of Defendant(s)'
3 misconduct.

4 **JURISDICTION AND VENUE**

5 4. This Court has subject matter jurisdiction over the federal copyright infringement
6 claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331. The Court has supplemental
7 jurisdiction over the claims arising under state law pursuant to 28 U.S.C. §1367(a) in that the
8 state claims are so related to the claims over which the court has original jurisdiction that they
9 form part of the same case or controversy. This Court also has jurisdiction over all photographs,
10 whether registered or unregistered. (*See e.g. Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146,
11 1154 [9th Cir. 2007]; *Olan Mills, Inc. v. Linn Photo Co.*, 23 F.3d 1345, 1349 [8th Cir. 1994]; *Pac.*
12 *& S. Co., Inc. v. Duncan*, 744 F.2d 1490, 1499 n. 17 [11th Cir. 1984]).

13 5. This Court has personal jurisdiction over Maverick Media LLC because Maverick
14 Media LLC maintains its principal place of business in Allen County, Ohio and purposely directs
15 substantial activities at the residents of Ohio by means of the website described herein. This
16 Court also has personal jurisdiction over the Defendant(s) under the applicable long-arm
17 jurisdictional statutes of Ohio.

18 6. Venue is proper under 28 U.S.C. §1391(a)(2) because Maverick Media LLC does
19 business in this Judicial District and/or because a substantial part of the events or omissions
20 giving rise to the claim occurred in this Judicial District.

21 **PARTIES**

22 7. NPG is a California Limited Liability Company and maintains its principal place
23 of business in Los Angeles County, California.

24 8. On information and belief, Defendant Maverick Media LLC, is a Ohio Limited
25 Liability Company with a principal place of business in Allen County, Ohio and is liable and
26 responsible to Plaintiff based on the facts herein alleged.

27 **FACTUAL ALLEGATIONS**

1 9. Plaintiff(s) owns the rights to a multitude of photographs which it licenses to
2 online and print publications and have invested significant time and money in building their
3 photograph portfolios.

4 10. Plaintiff(s) have obtained several active and valid copyright registrations with the
5 United States Copyright Office (the "USCO"), which registrations cover many of their
6 photographs and many others are the subject of pending copyright applications.

7 11. Plaintiff(s)' photographs are original, creative works in which Plaintiffs own
8 protectable copyright interests.

9 12. Defendant(s) are the registered owner of the Websites and are responsible for their
10 content.

11 13. The Websites provide, *inter alia*, articles, photographs and other information
12 regarding celebrities.

13 14. The Websites are monetized in that they contain paid advertisements and/or sell
14 merchandise to the public and, on information and belief, Defendant(s) profit from these
15 activities.

16 15. Without permission or authorization from Plaintiff(s), Defendant(s) copied,
17 modified, and/or displayed Plaintiff(s) rights protected photographs (hereinafter collectively
18 referred to as "*Photograph(s)*"), as set forth in Exhibit "1" which is annexed hereto and
19 incorporated in its entirety herein, on the Websites.

20 16. As is set forth more fully in Exhibit "1", each listed infringement contains the
21 URL ("*Uniform Resource Locator*") for a fixed tangible medium of expression that was
22 sufficiently permanent or stable to permit it to be communicated for a period of more than
23 transitory duration and constitutes a specific item of infringement. (*See 17 U.S.C. §106(5);*
24 *Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1160 [9th Cir. 2007]).

25 17. On information and belief, the Photograph(s) were copied without license or
26 permission, thereby infringing on the Copyrights (hereinafter collectively referred to as the
27 "*Infringement(s)*").
28

1 practical ability to do so.

2 36. Accordingly, Defendant(s) are liable as vicarious infringers since they profited
3 from direct infringement while declining to exercise a right to stop or limit it. (*See e.g., Perfect*
4 *10, Inc. v. Amazon.com, Inc.*, 508 F.3d. 1146, 1171 [9th Cir. 2007]; *Metro-Goldwyn-Mayer*
5 *Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 929-30 [2005]).

6 37. As a result of Defendant(s)' misconduct, Plaintiff(s) have been substantially
7 harmed in an amount to be proven at trial.

8 **FOURTH COUNT**
9 ***(Injunction Pursuant to 17 U.S.C. §502)***

10 38. Plaintiff(s) incorporate, as though fully set forth herein, each and every allegation
11 contained in the preceding paragraphs, as though set forth in full herein.

12 39. Plaintiff(s) request a permanent injunction pursuant to 17 U.S.C. §502(a)
13 prohibiting Defendants from displaying Plaintiff(s) Photographs.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff(s) respectfully requests judgment as follows:

16 1. That the Court enter a judgment finding that Defendants have infringed directly,
17 contributorily and/or vicariously on Plaintiff(s)' rights to the Photograph(s) in violation of 17
18 U.S.C. §501 et seq. and award damages and monetary relief as follows:

- 19 a. Statutory damages against Defendant(s) pursuant to 17 U.S.C. §504(c) of
20 \$150,000 per infringement or in the alternative Plaintiff(s)' actual damages
21 and the disgorgement of Defendant(s)' wrongful profits in an amount to be
22 proven at trial; and
23 b. A permanent injunction against Defendant(s) pursuant to 17 U.S.C. §502;
24 and
25 c. Plaintiff(s)' attorneys' fees pursuant to 17 U.S.C. §505; and
26 d. Plaintiff(s)' costs; and

27 2. Such other relief that the Court determines is just and proper.
28

1 DATED: September 11, 2013

2 **SANDERS LAW, PLLC**

3
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10 **REQUEST FOR JURY TRIAL**

11 Plaintiff hereby demands a trial of this action by jury.

12 DATED: September 11, 2013

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